

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5564 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

CHMPAKBHAI K KAHAR

Versus

COMMISSIONER OF POLICE

Appearance:

MR MC KAPADIA for Petitioner
Shri Kamal Mehta, AGP for the respondents

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 06/11/96

ORAL JUDGEMENT

Heard the learned counsel for the parties. By the impugned order dated 21st May 1996, Kamleshbai Thakorebhai Kahar, son-in-law of the petitioner herein has been detained under the provisions of Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as "the PASA Act"). It is contended that simply because the aforesaid detenu is alleged to be a bootlegger, he cannot be detained under

PASA Act, unless there is any material to show that his activities are likely to adversely affect the maintenance of public order. Learned counsel placed reliance on the decision of the Supreme Court in the case of Piyush Kantilal Mehta v. Commissioner of Police, Ahmedabad City and another, A.I.R. 1989 SC 491.

2. I have perused the material on record with the assistance of the learned counsel. There is no material on the record to show that the activities of the said detenu, as a bootlegger, had adversely affected or likely to affect adversely the maintenance of public order. Thus, the order of detention cannot be upheld. In the result the Special Civil Application is allowed. The order of detention dated 21st May 1996 is quashed and set aside. It is directed that the detenu - Kamleshbhai Thakorbhai Kahar, the son in law of the petitioner herein shall be released forthwith, if he is not required in any other case. Rule is made absolute.

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